TRANSPORTATION FINANCING OPTIONS

APRIL 2002

TRANSPORTATION ECONOMIC PARTNERSHIPS
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

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I. FEDERAL LOANS AND CREDIT SUPPORT

NAME	**Transportation Infrastructure Finance and Innovation Act (TIFIA)**
PROJECT TYPE	**Revenue Projects Requiring Credit Assistance**
DESCRIPTION	**Leverage limited Federal resources and stimulate capital investment by providing credit rather than grants to projects of national or regional significance with the following:** **-Direct loans offer flexible repayment terms and provide combined construction and permanent financing of capital costs** **-Loan Guarantees provide full-faith and credit guarantees by the Federal government to institutional investors, such as pension funds, which make loans for projects** **-Standby lines of credit represent secondary sources of funding in the form of contingent Federal loans that may be drawn upon to supplement project revenues, if needed, during the first 10 years of project operations**
BENEFITS	**-Improved access to capital markets** **-Flexible repayment terms** **-Potentially more favorable interest terms** **-Can help advance large capital intensive projects**
REQUIREMENTS	**-Federal credit assistance may not exceed 33% total project costs** **-Sponsors may be public or private entities, including state governments** **-Any project that is eligible for Federal assistance through surface transportation projects is eligible** **-Competitive application process** **-Costs must be at least $100million or 50% of state's annual Federal-aid highway apportionments, whichever is less** **-Project must be supported in whole or part by user charges or other non-Federal dedicated funding sources and included in the state's Transportation Plan** **-Must have circulated Draft EIS or received Finding of No Significant Impact at time of application**
LEGISLATION	**Transportation Equity Act for the 21st Century (TEA-21)**

PROJECTS USDOT has provided $3.1 billion in TIFIA assistance for 10 projects (including rail, transit, and intermodal) with a total cost of $196 billion, resulting in a leveraging ratio of 61:1 when the budget authority is compared to the total investment in the projects themselves.

SR 125 Toll Road-CA
Cooper River Bridge-SC
Central Texas Turnpike-TX

NAME	**Section 129 Loans**
PROJECT TYPE	**Revenue Projects Requiring Credit Assistance**
DESCRIPTION	**Allow Federal participation in a state loan to a toll project and to non-toll projects with a dedicated revenue stream, such as excise taxes, sales taxes, real property taxes, motor vehicle taxes, incremental property taxes, or other beneficiary taxes**
BENEFITS	**-Allows states to leverage additional transportation resources and recycle assistance to other eligible projects** **-States have flexibility to negotiate interest rates and other terms**
REQUIREMENTS	**-No Federal requirements that apply since selection process is governed by state law and state responsibility to ensure that the recipient uses the loan for the specified purposes** **-Loan may be made for any amount provided that the maximum Federal share (80%) of total eligible project costs are not exceeded** **-Total eligible project costs limited to costs of engineering, right-of-way acquisition, and construction at the time FHWA authorizes loan to be made** **-Loan can only be made to active, eligible projects** **-Loan cannot cover the cost of work done prior to loan authorization** **-Project loan can be authorized in conjunction with advance construction** **-Loans must be repaid to the state, beginning within five years after construction completed and project open to traffic** **-Repayment must be completed within 30 years after Federal funds authorized** **-When repaid, state is required to use the funds for a Title 23 eligible project or credit enhancement activities**
LEGISLATION	**U.S. Code Section 129** **Legislative and Regulatory Implications of TEA-045**
PROJECTS	**<u>Pres. George Bush Turnpike, Texas</u>** **TXDOT will pass through a $135 million loan of Surface Transportation Program (STP) Federal-aid funds to North Texas Turnpike Authority (NTTA) as part of the project's financing plan. This money gave NTTA the bonding capacity**

needed to cover project costs, and greatly enhanced the creditworthiness of NTTA's $450 million in revenue bonds issued for the project. The loan also allowed NTTA to contribute $20 million to the project from funds that might otherwise have been required as reserves for the debt. NTTA's repayment obligation on the Section 129 loan will be subordinate to the repayment of its toll revenue debt service since interest was deferred until 2000. Repayment of the loan is spread over 25 years and does not begin until 2004. Similarly, interest accrues on the bonds from the date of issuance, but is not paid until 2005. Both payment schedules help protect investors from the risk associated with the project's construction and start-up period. After repayment, Section 129 loan funds may be used to capitalize the Texas State Infrastructure Bank (SIB) .

II. FEDERAL AID GRANTS LEVERAGING

NAME	**Federal Matching Funds**
PROJECT TYPE	**Traditional Non-Revenue Projects**
BENEFITS	**-Expedite project construction by delivering travel time savings and safety improvements sooner** **-Improving cash flow allows states to pursue multiple projects concurrently, stretching limited federal dollars** **-Provide more flexibility to the states in satisfying the non-Federal matching requirements and in their management of Federal funds**
OPTIONS	**Tapered Match** **-Removes the provision that requires application of Federal match to each payment to the State** **-Allows the Secretary to develop policies regarding adjustment of the Federal match during the life of the project** **-Limited to situations that result in expediting project completion, reducing project costs or leveraging additional non-federal funds** **-State can advance a project before fully securing bond and capital market financing** **Credits for Acquired Land (Third Party Donations)** **-Expands current law relating to donated private property to also allow the fair market value of land lawfully obtained by State or local government to be applied to non-Federal share of project costs** **-Acquisition of real property enables states to leverage transportation investment** **-Third parties includes private companies, organizations, and individuals** **-Certain publicly owned property may be used** **Using Federal Funds as Match** **-For transportation enhancement projects, State may apply funds from other Federal agencies to the non-Federal share** **-Funds appropriated to any Federal land management agency may be used to pay the non-Federal share of a Federal-aid project funded under section 104 of Title 23, U.S. Code** **-Federal Lands Highway Program funds may be used to pay the non-Federal share of projects funded under Section 104 of Title 23 that provides access to or within Federal or Indian lands**

<u>Toll Revenue Credits</u>
-Allows States to accumulate credits based on toll revenues used to build, improve, or maintain certain highways and bridges to be applied to the non-Federal share of certain projects
-State must pass annual maintenance of effort (MOE) test

<u>Program Match</u>
-Establishes annual program-wide approval for STP projects, rather than the quarterly project-by-project approval process
-Provides the Secretary with discretion to apply match requirements to the annual program in lieu of individual projects

LEGISLATION **TEA-21, sections 1108, 1111, 1115, 1301, 1302, 1303**

PROJECTS **Tapered Match-SR 520 Translake Project**
Toll Credits- Over $8 billion in 19 states, including:

<u>Pres. George Bush Turnpike-TX</u>
The counties of Dallas, Collin, and Denton contributed $39.9 million in local rights-of-way to the project. Under the TE-045 program, the value of this contribution will count toward the state's 20 percent non-Federal match requirement allowing state funds to be used on other projects.

<u>Spring-Sandusky Corridor-Ohio</u>
ODOT is using toll credits as the state matching share for GARVEE bond reimbursements to maximize transportation resources. Under the toll credit technique of TEA 21, a state may apply the use of excess toll revenues as a credit toward the non-Federal matching share of Federally assisted transportation projects. Toll credits do not provide cash to the project to which they are applied, but their use effectively raises the Federal share to up to 100 percent on projects receiving toll credits.
Ohio has used $286 million out of $653 million from excess expenditures generated by the Ohio Turnpike System towards the non-Federal matching share of eligible projects, including $130 million for a group of nine eligible major improvement projects. Ohio is using these toll credits at the state level to match GARVEE bonds and also sharing its credits with local government agencies for highway and transit projects.
The toll credit option has enabled ODOT to more effectively leverage existing resources and increase capital investments.

NAME	**Advance Construction Authority**
PROJECT TYPE	**Traditional Non-Revenue Projects**
DESCRIPTION	**State may use nonfederal funds to advance a Federal-aid project while preserving its eligibility to receive Federal-aid reimbursements in the future**
BENEFITS	**-Eliminates the need to set aside full obligatory authority before starting projects -State can undertake greater number of concurrent projects -Facilitates construction of large projects while maintaining obligatory authority for smaller ones**
OPTIONS	**-Conversion to a Federal-aid project by obligating permissible share of its Federal-aid funds and receiving subsequent reimbursements in the future -Conserve obligation authority and maintain flexibility in funding program -Under partial conversion, state converts, obligates, and receives reimbursement for only a portion of the Federal share of project costs which removes requirement to wait until full amount of obligation authority is available**
LEGISLATION	**NHS Act, Section 308**
PROJECTS	**$19.6 billion in 47 states**
	<u>Pres. George Bush Turnpike-TX</u> Partial Conversion of Advance Construction allowed TXDOT to use NTTA funds immediately and preserve eligibility for reimbursement of the federal share of the project in the future. This tool provided critical Federal-aid cash inflows timed to meet the project's construction schedule.

III. STATE CREDIT ASSISTANCE

NAME	**State Infrastructure Banks (SIBs)**
DESCRIPTION	**-A state revolving fund that can offer a range of loans and credit assistance enhancement products to public and private sponsors of Title 23 projects. -Types of assistance include loans, loan guarantees, standby lines of credit, letters of credit, certificates of participation, debt service reserve funds, bond insurance, and other non-grant assistance**
BENEFITS	**-Funds can be leveraged to attract private, local, and additional state resources into a larger investment -SIB capital can be used as collateral in the bond market or to establish a guaranteed reserve fund -States can contribute additional funds beyond the required nonfederal match**
REQUIREMENTS	**Requires state enabling legislation-39 have so far**
LEGISLATION	**Section 350 NHS Act RCW 82.44.195**
PROJECTS	**32 states have entered into 204 loan agreements worth over $2.4 billion. An increase of 41 agreements between March and October 2001 represented over $390,000 in new investment. Over 91 percent of the dollar amount of all SIBs is concentrated in South Carolina, Florida, Arizona, Ohio, Texas and Missouri.**

South Carolina

The cornerstone of SCDOT's program is the Transportation Infrastructure Bank (SIB) which was created in 1997 by the General Assembly to assist in financing major projects. The SIB has approved and begun development of nearly $2.4 billion in projects. It is governed by a seven-member Board of Directors with administrative, financial, engineering, and other services provided by SCDOT staff.

Unique features:

- **Capitalized almost entirely with state funds**
- **Leveraging its capital through bonding ($850 million revenue bonds)**

- **Its authority to provide grants as well as loans for project financing**
- **Requires localities to provide a local contribution**

Sources of revenue:

- **Federal capitalization monies**
- **$66 million from State General fund as one-time source of capitalization**
- **Share of state gas tax**
- **Truck registration fees**
- **Contributions from applicants who have received funding in the form of loan repayments and additional contributions from SCDOT**

The SIB is contributing 45 percent, applicants are providing 45 percent of the project costs, and SCDOT is providing 10 percent. The leadership of the Governor, General Assembly, SIB Board, and the cooperation of SCDOT and the State Treasurers Office along with other financial and legal assistance have contributed to its success.

Florida

Florida's SIB is a revolving loan and credit enhancement program consisting of a Federal-funded SIB account and a state-funded SIB account. The Federal SIB is capitalized with Federal money matched with state money as authorized under TEA-21. The state SIB is capitalized with state money of $50 million per year through 2003 and can leverage funds through loans and credit enhancement assistance to improve project feasibility.
Below market rate loans are a subsidy that FDOT has been willing to provide. DOT requires that the project sponsor propose an interest rate pertaining to the loan and repayment stream.

IV. BONDING AND DEBT INSTRUMENTS

NAME	**Grant Anticipation Revenue Vehicles (GARVEES)**
DESCRIPTION	**Designation for debt financing instrument that has the pledge of future Federal-aid for debt service and is authorized for Federal reimbursement of debt service and related financing costs**
PROJECT TYPE	**Traditional Non-Revenue Projects**
BENEFITS	**-Generates up-front capital for major projects that states may be unable to construct in the near term using traditional pay-as-you-go methods** **-Can be used in conjunction with advance construction to enable using Federal-aid funds for future debt service payments** **-Enables state to accelerate construction timelines and spread the cost over the useful life rather than just the construction period** **-Expands access to capital market, as an alternative or in addition to potential general obligation or revenue bonding capabilities**
OPTIONS	**States can now receive Federal-aid reimbursements for a wide array of debt-related costs incurred with an eligible debt financing instrument, such as bond, note, certificate, mortgage, or lease**
LEGISLATION	**Section 122 of Title 23, United States Code** **States must pass enabling legislation (11 have; 5 are seeking or considering it)**
PROJECTS	**$1 billion in five states, including:** **Butler Regional Highway-OH** **T-REX Expansion Project-CO** **Central Artery/Tunnel-MASS** **I-44-New Mexico** **-First GARVEES to pledge revenues beyond current authorization period** **-First GARVEES to pledge solely Federal revenue with no state back-up**

Northern Arc-Georgia

The Northern Arc Major Investment Study examined an east/west transportation study corridor crossing parts of three counties. The eastern portion of the Northern Arc is part of the Appalachian Development Highway System (ADHS), and Georgia receives an annual apportionment toward this facility. The ADHS funding has been a special federal program for more than 30 years, and it is expected that funding will continue until each segment of the system is built. The Department of Transportation has determined that a key potential GARVEE source for Georgia is the ADHS funding since future apportionments can be used according to FHWA.

The state has also announced plans for an $8.3 billion statewide transportation program that will be funded though GARVEE bonds. The program includes adding more miles of HOV lanes in the Atlanta region and transit improvements. The use of GARVEES is expected to shorten project completion times from up to 22 years down to as few as seven years.

V. <u>STATE ENABLING LEGISLATION</u>

NAME	**Non-Profit 63-20 Corporations**
DESCRIPTION	**Private, nonstock corporations that may be formed under the nonprofit corporation act of a state.**
PROJECT TYPE	**Public-Private-Partnerships**
OBJECTIVE	**Private developers and public agencies can develop major projects**
BENEFITS	**-Facilitate the qualification of a project to receive public funds -NFP can issue public or privately-placed debt -Debt can be issued on tax-exempt basis, resulting in savings in financing costs**
REQUIREMENTS	**-Must engage in activities which are "public in nature" -Corporate income must not inure to any private person -State must have a "beneficial interest" in the NFP while the indebtedness remains outstanding -Corporation must be approved by the State which must also approve specific obligations issued by the NFP -Unencumbered legal title in the financial facilities must vest in the State after the bonds are paid**
LEGISLATION	**-Does not require special legislation or referendum -NFPs are regulated by the IRS for compliance with requirements relating to Federal income tax exemption and the issuance of tax-exempt debt**
PROJECTS	**Tollroads in California, Virginia, Massachusetts, Minnesota, and South Carolina**

<u>Route 3-MASS</u>

- **Developer selection on a "best value" basis where the price bid was significant, but not the sole criterion for selection. Other criteria included the proposed cost of operations and maintenance over a 30-year period; project schedule; approach to maintenance of traffic; quality of design and the approach to construction quality assurance; proposed plan of finance; and planned approach to addressing environmental permitting.**

- **Price guaranteed and secured by developer**

- **Bonds secured by a 34-year lease of the facility between MassHighway and the 63-20 corporation, Route 3 North Transportation Improvements Association**

- **MassHighways rent payments cover debt service and the cost of operations and maintenance are subject to an annual appropriation of the Legislature**

- **Following components reduced the bond size by $54 million:**

    - **Scheduling of annual lease payment due dates well into Commonwealth's fiscal year eliminated the need for a liquidity debt service reserve which would have been required to address risk associated with potential delays in adoption of the state budget**
    - **Up-front payment was made by the project's senior banker (Salomon Smith Barney) to the Association of nearly $9 million in connection with an innovative forward purchase agreement.**
    - **Project risk insurance was purchased with the developer serving as co-insurer. This requires the developer to establish a contingency fund to meet unexpected changes in the amount of 10 percent of the design-build price, or approximately $38 million**

- **The Association's purchase of bond insurance from MBIA resulted in higher bond ratings so that the project was financed at a lower interest rate than the Commonwealth could obtain on its own general obligation credit**
- **The developer may pursue surface, sub-surface, and air rights development to generate to generate non-project revenues. Planned development includes installation of fiber optic cable during construction with the developer sharing in the sale of fiber optic rights. Other potential plans include construction and sublease of a service plaza, and development on land adjacent to the highway and interchanges. The developer has a strong incentive to pursue development right, receiving 40 percent of ancillary development revenues under the negotiated Development Agreement.**

VI. NEW WASHINGTON STATE LEGISLATION

Regional Transportation Investment Districts (E2SSB 6140)

A county with a population of over 1.5 million and adjoining counties with a population of over 500,000 may create Regional Transportation Investment Districts (RTID).

Projects

- **The regional projects to be funded with the regionally raised revenues must be a capital improvement or improvements to a highway of statewide significance that adds a lane or new lanes to an existing state or federal highway including associates approaches, HOV lanes, bus pullouts, flyover ramps, park and ride lots, vans for van pools, buses, and signalization, ramp metering and other transportation system management improvements.**

Local Arterials

Yes, if:

- **WSDOT determines that constructing improvements to local streets or roads, a new highway or an existing highway would better relieve traffic congestion than making that same investment in HSSS capacity**
- **Locals provide 1/3 in matching money**
- **No more than 10% of revenue/year**
- **No more than $1 billion total**
- **Specific projects go into the plan for a vote of the people**

Eligibility

- **Central Puget Sound: King, Pierce, and Snohomish Counties**
- **Provides grants of $200,000 to other areas to develop regional plans that meet their needs**

Boundaries

- **County-wide**
- **At least two contiguous counties**

Governance

- **Planning Committee: County council/commission members. Decisions must be made by 60% majority vote based on proportional representation. Seven-member executive board. Secretary serves as nonvoting member**
- **Governing Board: County council/commission member. Secretary of WSDOT serves as an ex officio member. Any action requiring voter approval must have a 60% majority vote based on proportional representation.**

Revenue

- **RTID: Vehicle fee of up to $100/year; sales and use tax of 0.5%; parking tax; tolls; and may impose unused local taxes ($2 employee tax and local MVET up to .3%).**

Accountability

- **Vote of the people on projects, timelines, and taxes**
- **Yearly report to the public on progress made in building projects**
- **If a project exceeds its costs by more than 20%:**
  - **It must be redefined and submitted to the voters; or**
  - **Upon 2 counties adopting resolutions, they may submit the redefined plan to the voters; or**
  - **Upon 2 counties adopting resolutions, they may decide not to send the project back to the voters.**
- **Does not own or operate any system**
- **No more than three percent of actual construction/design costs in a year may be used for administration/overhead**
- **Limited employees: WSDOT provides most support**

Highways of Regional Significance

- **SR 9, SR 524 and Cross-Base Highway are made highways of regional significance and are eligible for up to 10% of the regional revenue**

Dissolution

- **The entity dissolves when construction and financing are complete. Taxes end when payment for the project(s) is complete**

VII. RECENT LEGISLATION IN OTHER STATES

VIRGINIA

The Virginia Public-Private Transportation Act of 1995 is the legislative framework enabling the Commonwealth's qualifying local governments and certain other political entities to enter into agreements authorizing private entities to acquire, construct, improve, maintain, and /or operate qualifying transportation facilities. The public entities may either solicit or accept unsolicited proposals from private sources.

Private entities can propose innovative financing methods, including the imposition of user fees or service payments. The financing arrangements may include the issuance of debt, equity or other securities or obligations. The proposer may enter into sale and leaseback transactions and secure any financing with a pledge of, security interest in, or lien on, any or all of its property, including all of its property interests in the qualifying transportation facility.

All proposals are subject to the Virginia Freedom of Information Act, and VDOT will come to its own judgment whether or not requested materials are exempt from disclosure. Proposers can contact VDOT prior to submission regarding their concerns

DELAWARE

The Delaware Public-Private Initiatives Program enables the Department of Transportation to enter into agreements using federal, state and local financing in connection with the demonstration projects, including without limitation grants, direct loans, credit enhancements which do not pledge the full faith and credit of the State, loans from the Public-Private Initiatives Program Revolving Loan Fund. The General Assembly passed legislation in 1999 to make the program more financially attractive to the private sector and allowed public participation in privately owned projects.

MASSACHUSETTS

The 1999 Public/Private Procurement Statute specifically authorizes MassHighway to issue debt to the contractor in lieu of cash payments for work performed. The debt can be secured by project revenues on a subordinated basis.

NORTH CAROLINA

NC Turnpike Authority (Proposed)

- **Authorize creation of a public agency, NC Turnpike Authority to construct, operate, and maintain toll roads in the state**

- **Seven-member Board of Directors, consisting of six members appointed by the Governor and one designated by the Secretary of Transportation**

- **Board authorized to adopt and revise bylaws**

- **Prior to adoption, bylaws subject to review and comment by Board of Transportation and the Joint Legislative Transportation Oversight Committee**

- **Authority could only hire administrative personnel**

- **Authority to contract for the services of other needed personnel, and utilize personnel of NCDOT**

- **Spending on administration limited to 10% of project revenue**

Powers of Authority

- **Condemn property**
- **Issue Revenue Bonds**
- **Enter into Partnership Agreements**

- **Allow state and federal funds to be mixed with toll revenue bond proceeds for public or private development through 63-20 agreements**

- **Revenue bonds subject to the approval of the Local Government Commission**

- **Authority considered a "municipality" for purpose of issuing bonds**

Use of Revenues

- **Revenue from toll projects could only be used for following:**

    - **Turnpike administration**
    - **Turnpike project development, construction, operation and maintenance**
    - **Turnpike project debt service**

NCDOT Cost Participation

- **NCDOT authorized to participate in cost of preconstruction, construction, maintenance, or operation**

Equity Distribution Formula

- **Projects subject to equity distribution formula for State Highway Funds only to the extent that the project is funded from SHF, or federal-aid funds that would otherwise be subject to the formula**

- **Operation and project development costs of Authority would be eligible administrative expenses of Highway Trust Fund**

- **Tolls to be removed when all agreements in connection with the issuance of revenue bonds have been fulfilled**

Payment of Bonds; State Credit not pledged

- **Bonds issued under the Authority do not constitute a debt of the State or a pledge of the full faith and credit of the State**

VIII. OTHER STATE PROGRAMS AND LEGISLATION

Arizona Regional Area Road Fund Bonds (RARF)

This legislation allows local counties to authorize and issue bonds or incur long-term obligations payable in whole or in part from monies in a regional area road fund. RARFs are funded with transportation excise tax monies. Registered voters in counties with over 1.2 million residents can approve an incremental tax on electricity and natural gas for up to 20 years. These funds are then deposited in the RARF. The state's interest is as an obligee for reimbursement of state monies that are advanced as salaries or expenses that are to be repaid by the RARF.

Florida Bonds for Land and Bridges

A Constitutional Amendment allows debt financing for the purchase of land and the construction of bridges. The amount of money that can be bonded is capped and limited to a percentage of the revenues coming into the state transportation trust fund. As of early 2001, the state has issued over $1 billion and expects the total to reach $2 billion. By being able to move land purchase forward, the state has been able to accelerate construction and also leverage $18 billion in construction value. This is very effective because land for right-of-way can be purchase up front before it increases in value.

Virginia

The Virginia Transportation Act of 2000 (VTA) authorizes the Commonwealth Transportation Board to issue Federal Highway Revenue Anticipation Notes (FRANS) to accelerate the delivery of specified priority projects. The VTA limited the use of FRANs to no more than $800 million outstanding at any one time. Future receipts of federal highway project reimbursements were pledged as the revenue stream for the debt service.

Tax Increment Financing

Allows cities to create special districts and to make public improvements within those districts that will generate private-sector development. During the development period, the tax base is frozen at the predevelopment level. Property taxes continue to be paid, but taxes derived from increases in assessed values resulting from new development either go into a special fund created to retire bonds issued to originate the development or leverage future growth in the district.

Joint Development

Florida statute allows the state to enter into joint development agreements with private owners and has been used for the development of several park-and-ride lots.

Roadway Performance Warranty

New Mexico entered into a contract with Koch Industries to design, manage, and construct the expansion of Highway 44. The innovative feature is a roadway performance warranty.

For a one-time cost of $62 million, Koch is guaranteeing the overall performance of the highway pavement for 20 years from the date of completion, and will also warrant the bridges, drainage, and erosion control features of the highway for 10 years. The warranty is secured by a $114 million surety bond. The state will perform normal non-pavement maintenance along the roadway, such as mowing, snow removal, and signage. NM estimates that the state will save $89 million in maintenance costs over the 20-year period. The warranty requires the equivalent of a Pavement Serviceability index rating of 3.0 or better for the entire term of the warranty.

The warranty is a means for the state to capture the true, long-term cost of highway infrastructure and to ensure the long-term maintenance of the highway. This avoids the deferral of maintenance which causes roads to deteriorate prematurely and wastes significant tax dollars.